

Anthony Zappin

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Date: September 25, 2018

BY CM/ECF

Hon. Robert W. Sweet
United States District Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Courtroom 18C
New York, NY 10007

Re: *Zappin v. Comfort et al.* – Case No. 18-cv-01693-RWS

Dear Judge Sweet:

I write concerning the hearing scheduled for 12:00 pm tomorrow on Ms. Comfort's August 27, 2018 Motion to Strike the Amended Complaint (*see* Dkt. Nos. 74-76) and her August 27, 2018 Motion to Dismiss the Amended Complaint (*see* Dkt. No. 77.).

The crux of Ms. Comfort's motions is that Plaintiff's August 13, 2018 Amended Complaint was untimely as he could not file an amended complaint against her as-of-right pursuant to Fed. R. Civ. P. 15(a)(1)(B). I do not oppose this contention. However, earlier today I filed a motion to amend requesting leave to file the August 13, 2018 Amended Complaint against Ms. Comfort pursuant to Fed. R. Civ. P. 15(a)(2). (*See* Dkt. Nos. 86-87.)

It is my position that the Motion to Amend filed today mooted Ms. Comfort's Motion to Strike the Amended Complaint. Additionally, the Motion to Amend rendered Ms. Comfort's Motion to Dismiss the Amended Complaint premature.

Consequently, I request that the hearing scheduled for tomorrow on Ms. Comfort's motions be cancelled and the motions be taken on submission. Alternatively, I request that the hearing be adjourned to whatever date the Court sets to hear my Motion to Amend so that all issues surrounding the Amended Complaint be discussed and heard together.

Should the Court not be willing to cancel or move the hearing on Ms. Comfort's motions scheduled for tomorrow, I respectfully request leave to participate by telephone. I only returned to South Carolina yesterday as a result of the flooding in the area. I am still attempting to clean up some damage to my home. Additionally, traveling to New York would essentially require me to miss two days of work and incur substantial travel costs, which I cannot afford on my limited income. In sum, attending the hearing in person would be extremely burdensome. Should the Court allow me to participate by telephone, I would not oppose Ms. Comfort also participating by telephone so she does not have to miss work or travel while she is caring for our child.

Thank you for your attention to this matter and your continued courtesies.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Anthony Zappin". The signature is fluid and cursive, with the first name "Anthony" written in a smaller, more compact script than the last name "Zappin", which is larger and more prominent.

Anthony Zappin

cc: All Pro Se Parties and Counsel (*CM/ECF*)